

**Minutes of the Thirteenth Regular Meeting  
For the Twenty-Sixth Highland Town Council  
Monday, July 28, 2008**

*Study Session.* The Twenty-Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, July 28, 2008 at 6:30 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Mark Herak, Dan Vassar, and Konnie Kuiper were present. Councilor Brian Novak was absent owing to his vacation. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

**General Substance of Matters Discussed.**

1. The Town Council discussed the agenda of the imminent meeting.
2. The Town Council discussed the tax abatement hearing associated with Resolution No. 2008-30. The Town Council discussed the petitioner and whether or not the petitioner would remain in Highland.
3. The Town Council discussed the Resolution No. 2008-31, certifying to the Lake County Board of Elections and Registration, the public question of whether or not the Town Water utility should remain under the jurisdiction of the Indiana Utility Regulatory Commission.
4. The Town Council discussed the request of the Fire Chief to permit him authority to purchase a new passenger utility wagon, to meet a promotional deadline of August 1.

The study session ended at 6:59 O'clock p.m.

*Regular Meeting.* The Twenty-Fifth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, July 28, 2008 at 7:00 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Town Council President Bernie Zemen presided and the Town Clerk-Treasurer was present to memorialize the proceedings.

The session was opened with Councilor Mark A. Herak leading the pledge of allegiance to the United States Flag and the Rev. Arthur Burkman offering a prayer.

**Roll Call:** Present on roll call were Councilors Bernie Zemen, Mark Herak, Dan Vassar, and Konnie Kuiper. Councilor Brian Novak was absent owing to his vacation. The Town Clerk-Treasurer Michael Griffin was present. A quorum was attained.

**Additional Officials Present:** David Westland, Attorney with Tauber, Westland and Bennett, P.C.; John M. Bach, Public Works Director; Peter T. Hojnicky, Metropolitan Police Chief; Kenneth J. Mika, Building Commissioner; William R. Timmer, CFOD, Fire Chief; Alex M. Brown, CPRP; and Cecile Petro, Redevelopment Director.

Arthur Burkman of the Board of Waterworks Directors was also present.

Donna Zemen, Town Council President Zemen's wife, was also present.

## Minutes of the Previous Session

The minutes of the regular meeting of July 14, 2008 were approved by general consent.

### Special Orders:

1. **Advisory Board of Zoning Appeals Docket:** Petition for a Use Variance for property located at **9005 Indianapolis Boulevard**, Highland, to be utilized as a **Montessori School** (3-6 yrs of age) located in a B-3 Zoned District (Business Planned Unit Development). Petitioner is Alejandra Keefe, 1643-174<sup>th</sup> Street, Hammond. The Advisory Board of Zoning Appeals by a vote of four in favor and zero opposed voted to **favorably recommend the request for the use variance**. *Approval was contingent upon a maximum capacity of 60 children and shall not exceed the State Code (which ever is less; and that a six-foot privacy fence shall be erected surrounding the outdoor playground property.* The ABZA acted at its meeting of 28 May 2008. The findings of fact were memorialized and the board approved the facts in written form at its meeting of 25 June 2008. (90 days ends 26 Aug.)
- Pursuant to IC 36-7-4-918.6, the Town Council may either **accept the recommendation** and grant the requested use variance or it may **reject the recommendation** and deny the use variance.

Councilor Kuiper moved to accept the favorable recommendation and grant the use variance as requested. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The use variance was granted.

2. **Advisory Board of Zoning Appeals Docket:** Petition for a Use Variance for property located at **8016 Kennedy Avenue**, Highland, to be utilized as a **Church** located in a B-2 Zoned District (Neighborhood Business District). Petitioners are Gary and Helen Williams, 8012 Kennedy Avenue, Highland. The Advisory Board of Zoning Appeals by a vote of four in favor and zero opposed voted to **favorably recommend the request for the use variance**. *Approval was contingent upon that every six months, at a minimum, the church shall advise its members to refrain from parking across Kennedy Avenue, Highland.* The ABZA acted at its meeting of 25 June 2008. The findings of fact were memorialized and the board approved the facts in written form at its meeting of 23 July 2008. (90 days ends 23 September.) Pursuant to IC 36-7-4-918.6, the Town Council may either **accept the recommendation** and grant the requested use variance or it may **reject the recommendation** and deny the use variance.

Councilor Kuiper moved to accept the favorable recommendation and grant the use variance as requested. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The use variance was granted.

### Comments from the Public for Topics on the Agenda

This portion of the Town Council Meeting is reserved for persons who desire to address the Town Council. Depending on the nature of the comments, the Town Council may direct the staff to address the topic or follow-up on matters that may arise from public comments. Persons addressing the Town Council are requested to limit their presentations to **three (3) minutes** and to try to avoid repetitious comments.

1. Rick Volbrecht, 9221 Parkway Drive, Highland, commenting on Resolution No. 2008-31, noted that he solicited petitions that triggered the referendum on the IURC matter and opined that people did not favor removing the water utility from the jurisdiction of the IURC. Mr. Volbrecht expressed his desire to keep the IURC performing oversight of the water utility.

2. Art Burkman, 9329 Erie Street, Highland, expressed his support for with drawing from the IURC. Mr. Burkman further expressed his belief that the effort to cause a referendum regarding the issue of the IURC was being advanced by a former Town Councilor who was not re-elected in the municipal election. Mr. Burkman further expressed his understanding that petitions were circulated representing that they were needed to prevent a rate increase being contemplated by the Waterworks. Mr. Burkman, as a member of the Waterworks Board, expressed that no rate increase was under consideration at this time.

A colloquy ensued informally between and among Councilor Herak and Mr. Rick Volbrecht, in which Councilor Herak expressed his belief that the petition drive was being conducted by some who wish to challenge the Town council for political rather than policy reasons. Mr. Volbrecht objected to and denied the characterization.

3. Ray Goodrich, 3248 42<sup>nd</sup> Place, Highland, inquired about the rationale for the timing of the ordinance to withdraw from the IURC.

#### Unfinished Business and General Orders:

1. **Resolution No. 2008-29:** An Exigent Resolution Providing for the Transfer of Appropriation Balances from and among Major Budget Classifications in the Municipal Cumulative Capital Development Fund as Requested by the Department Head or Proper Officer and Forwarded to the Town Council for its action pursuant to IC 6-1.1-18-6.

Councilor Herak moved the passage and adoption of Resolution NO. 2008-29. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The resolution was adopted.

#### TOWN of HIGHLAND APPROPRIATION TRANSFER RESOLUTION RESOLUTION NO. 2008-29

AN EXIGENT RESOLUTION PROVIDING for the TRANSFER of APPROPRIATION BALANCES from and AMONG MAJOR BUDGET CLASSIFICATIONS in the MUNICIPAL CUMULATIVE CAPITAL DEVELOPMENT FUND as REQUESTED by the DEPARTMENT HEAD or PROPER OFFICER and FORWARDED to the TOWN COUNCIL for its ACTION PURSUANT TO IC 6-1.1-18-6.

WHEREAS, It has been determined that certain exigent conditions have developed since adoption of the annual budget and it is now necessary to transfer certain appropriations into different categories than were appropriated in the annual budget for the various functions of the Municipal Cumulative Capital Development Fund;

WHEREAS, The Town Council has been advised that the transfer would involve creation and authorization of a major expense category, for which no appropriations were approved in the current budget;

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Highland, Lake County, Indiana as follows:

**Section 1.** That for the expenses of said municipality, the following appropriations are hereby transferred and set apart out of the funds hereinafter named for the purposes herein specified, subject to the laws governing the same, such sums herein transferred unless otherwise stipulated by law;

**Section 2.** That it has been shown that certain existing appropriations of the Municipal Cumulative Capital Development Fund have unobligated balances which will not be needed at this time for the purposes for which appropriated, so it will not be necessary to increase the 2008 budget, and may be transferred to a category of appropriation not heretofore present in this department or office of the fund, but now hereby authorized and established, as follows:

#### MUNICIPAL CUMULATIVE CAPITAL DEVELOPMENT FUND

Reduce Accounts: #430.13 Fire Dept Vehicle	\$ 4,000.00
Total 400 Series Reductions	\$ 4,000.00
Increase Account: #300.02 Police Car Leases	\$ 4,000.00
Total 300 Series Increases	\$ 4,000.00

Total of All Fund Decreases:	\$ 4,000.00
Total of All Fund Increases:	\$ 4,000.00

**DULY RESOLVED and ADOPTED** this 28<sup>th</sup> Day of July 2008 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/CMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

2. **Resolution 2008-30:** A Resolution fixing Monday, August 25, 2008 as the date for a Public Hearing on an application for Property Tax Abatement related to proposed construction of a new building at 2716-2726 Garfield Street, Mr. Terry Trusgnich d/b/a Aide Rentals and Sales II, applicant.

*The applicant seeks tax abatement related to the proposed construction of a \$350,000 building that would bring 4 additional jobs to town with an estimated \$382,000 annual payroll. At a meeting held June 13, 2007, the Redevelopment Commission found the development to be consistent with its development objectives and design standards and recommended a deduction period of 10 years.*

Councilor Kuiper moved the passage and adoption of Resolution No. 2008-30. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The resolution was adopted.

Under discussion prior to adoption, Councilor Herak inquired of the petitioner who was present about petitioner's intention to remain in Highland. The petitioner indicated his intention to remain in Highland.

**TOWN OF HIGHLAND, INDIANA  
Town Council Resolution No. 2008-30**

A RESOLUTION FIXING MONDAY, AUGUST 25, 2008 AS THE DATE FOR A PUBLIC HEARING ON AN APPLICATION FOR PROPERTY TAX ABATEMENT RELATED TO PROPOSED CONSTRUCTION OF A BUILDING AT 2716-2726 GARFIELD STREET.

**WHEREAS**, Indiana Code 6-1.1-12.1 et seq.; amended, (the "Act") allows a partial abatement of property taxes attributable to "Redevelopment" or "Rehabilitation" activities in "Economic Revitalization Areas" as those terms are defined in the Act, and

**WHEREAS**, Property tax abatement, if approved, is applied as a deduction in the increase in assessed value that results from investment in new construction or rehabilitation of property; and

**WHEREAS**, On May 17, 2007, the Highland Town Council adopted Resolution No. 2007-23 designating an Economic Development Revitalization Area co-terminus with the Redevelopment Area; and

**WHEREAS**, On June 25, 2007, the Highland Town Council approved Ordinance 1359 designating the Economic Development Target Area co-terminus with the Economic Revitalization Area and the Redevelopment Area; and

**WHEREAS**, An application has been received from Mr. Terry Trusgnich d/b/a Aide Rentals and Sales II, (a copy of the legal description is attached and incorporated herein by reference (see Exhibit A)) for property tax abatement for construction of a new building (the "Project") to be located on premises legally described as:

Parcel #1—The West 100 feet of the East 420 feet of the North 115 feet of Block 12 and

Parcel #2—The North 115 feet of the West 176 feet of the East 320 feet of Block 12

Both parcels are within the original Town of Highland Plat Book 1, Page 86 of the Recorder's office of the Lake County, Indiana; and

**WHEREAS**, Said application proposes construction of a new \$350,000.00 building that would bring four additional jobs to Highland with an estimated \$382,000 annual payroll that may not proceed but for approval of tax abatement by the Town Council; and

**WHEREAS**, \$113,900 is the most recent assessed value of the property that is the subject of this resolution, and

**WHEREAS**, \$463,900 is the estimated assessed value of the property upon completion of the Project; and

**WHEREAS**, The Real Estate is located within an Economic Revitalization Area and an Economic Development Target Area within the Town of Highland; and

**WHEREAS**, At a meeting held on April 9, 2008, the Highland Redevelopment Commission found the proposed development to be consistent with its development objectives and design standards and recommended an abatement period of ten years; and

**WHEREAS**, The Act empowers the Town Council to approve a deduction as percentage of the increase in assessed value that results from investments in new construction or rehabilitation of property by following a procedure hearing and confirmation of a Preliminary Resolution, provision of a public notice at least ten days before the date of a public hearing, conducting a public hearing and confirmation of a Final Resolution.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Council of the Town of Highland as follows:

**Section 1.** The Highland Town Council will consider an application for property tax abatement for construction of a new building on the Real Estate, which is the subject of this resolution after a public hearing and upon adoption of a Final Resolution confirming this Preliminary Resolution.

**Section 2.** The Final Resolution shall limit the amount of deduction applicable for redevelopment of said Real Estate for a period of time not to exceed **ten (10)** calendar years to \$350,000 cost with a total assessed value of \$463,900.

**Section 3.** Pursuant to enabling authority provided at IC 6-1.1-12.1-2(h)(6), as a condition of approval for the deduction in assessed value, the applicant shall contribute **\$3,500.00** to the Town of Highland at closing from loans proceeds secured for construction of the Project.

**Section 4.** The Town Council hereby fixes 7:00 PM, **Monday, August 25, 2008** in the Council Chambers, Highland Town Hall, 3333 Ridge Road, Highland, Indiana, as the time and place for a public hearing for receiving testimony, remonstrances and objections from persons interested in or affected by the proposed property tax abatement and directs the publication of notice of said hearing in accordance with the requirements of applicable law. After the public hearing, the Town Council will consider a Final Resolution that would grant tax abatement consistent with conditions described in this Preliminary Resolution.

**DULY RESOLVED and ADOPTED** this 28<sup>th</sup> Day of July 2008, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**HIGHLAND, INDIANA**

**TOWN COUNCIL of the TOWN of**

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/CMC/CPFA (IC 33-16-4-1;IC 36-5-6-5)  
**Clerk-Treasurer**

**EXHIBIT A**

Legal Description of 2716-2726 Garfield Street

Parcel #1—The West 100 feet of the East 420 feet of the North 115 feet of Block 12 (parcel #16-27-0103-0001) and

Parcel #2—The North 115 feet of the West 176 feet of the East 320 feet of Block 12 (parcel # 16-27-0103-0011)

Both parcels are within the original Town of Highland Plat Book 1, Page 86 of the

**WHEREAS**, The Town Council, as municipal legislative body, conducted a public hearing, May 12, 2008, after providing written notice of the meeting to all ratepayers of the utility and the commission, by United States Mail, at least 30 days before the hearing, and before the final vote on Ordinance No. 1386;

**WHEREAS,** At the conclusion of the public hearing, the Town Council by a unanimous vote did pass and adopt Ordinance No. 1386, to be effective following the conclusion of a period of 60 days while that during that time, no petition of registered voters as described in IC 8-1.5-3-9.1, being filed, all pursuant to IC 8-1.5-3-9.1, subdivisions (b) and (c);

**WHEREAS,** Before the conclusion of the sixty-day period, which ended on July 11, 2008, there were filed several petitions, in 87 pages, with the Highland Town Council, apparently possessing a total of 296 signatures, and these petitions were seeking to have the question of removal from Indiana Utility Commission Regulatory Commission jurisdiction to be submitted to the registered voters of the municipality, as set forth in IC 8-1.5-3-9.1, subdivisions (d) through (g);

**WHEREAS,** The Town Clerk-Treasurer, in performing due diligence, did enlist the Lake County Board of Elections and Registration to review the several signatures on the several petitions to determine the validity of the signature and to verify that the persons so identified were in fact registered voters in the Town of Highland, pursuant to IC 8-1.5-3-9.1;

**WHEREAS,** The Director of the Lake County Board of Elections and Registration, on July 22, 2008, certified that the necessary minimum **number** of proper signatures required according to the provisions of IC 3-8-6-3 as referenced in IC 8-1.5-3-9.1 (d) (1), is **118**; and,

**WHEREAS,** The Director of the Lake County Board of Elections and Registration, on July 22, 2008, further certified that the actual **number** of proper signatures found to be valid among the 87 pages of petitions as submitted was **274**;

**WHEREAS,** IC 8-1.5-3-9.1 (d) expressly provides: *"The question of removal from commission jurisdiction shall be submitted to the registered voters of the municipality if, within the sixty (60) day period described in subsection (c), the legislative body receives a petition: (1) that is signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot; and (2) that requests the legislative body to submit the question of removal from commission jurisdiction to the registered voters of the municipality at the next election;"*

**WHEREAS,** IC 8-1.5-3-9.1 further provides that upon the preceding circumstance, the legislative body shall submit the following public question to the registered voters of the municipality at the next election in the form prescribed by IC 3-10-9-4:

**"Shall the municipally owned utility be taken out of the jurisdiction of the Indiana utility regulatory commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness?" and**

**WHEREAS,** The Town Council as municipal legislative body now desires to carry-out its duty to certify and cause the properly worded public question to be placed before the registered voters of the Town as called for in IC 8-1.5-3-9.1,

**NOW, THEREFORE, BE IT HEREBY RESOLVED,** by the Town Council of Highland, Indiana as follows:

**Section 1.** That the facts set forth in the preamble of this resolution are hereby found and determined to be true and correct, that the petitions described herein were filed within the time frame, in the proper form, and with the required number of registered voters signatures in order to cause the matter of the removal of the municipal waster utility to be placed as a public question before the registered voters of the municipality, pursuant to IC 8-1.5-3-9.1;

**Section 2.** That the Highland Town Council, as the municipal legislative body, pursuant to the provisions of IC 8-1.5-3-9.1 and IC 3-10-9-4, does now hereby certify to Lake County Board of Elections and Registration, the following public question, in the following form, to be placed on the ballot prepared for the General Election, to be conducted on Tuesday, November 4, 2008, for the voters of the Town of Highland, Lake County, Indiana:

**"Shall the municipally owned utility be taken out of the jurisdiction of the Indiana utility regulatory commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness?"**

**Section 3.** That pursuant to IC 8-1.5-3-9.1(g), the provisions of Ordinance No. 1386 shall not take effect until and after removal is approved by a majority of those voting;

(A) That if a majority of those voting on the question described in Section 2 of this resolution favor taking the municipally owned utility out of the jurisdiction of the commission, the utility is removed from the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidences of indebtedness;

(B) That if a majority of those voting vote against removal, the utility remains under the jurisdiction of the commission and Ordinance No. 1386 does not take effect;

**Section 4.** That the certification of the public question as set forth in this resolution, shall be delivered to the Lake County Board of Elections and Registration, according to and not later than the deadline provided in IC 3-10-9-3;

**Section 5.** That pursuant to IC 8-1.5-3-9.1 (e), the legislative body shall mail written notice of the referendum to the commission at least ten (10) days before the date of the election.

**DULY RESOLVED AND ADOPTED** by the Town Council of the Town of Highland this 28<sup>th</sup> day of July 2008. Having been approved by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

/s/ Bernie Zemen, President (IC 36-5-2-10)

Attest:

/s/ Michael W. Griffin, Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

**Certificate of Delivery/Receipt**

I hereby certify that this resolution certifying the public question described herein was delivered to Lake County Board of Elections and Registrations on the date shown below in satisfaction of Section 4 of this resolution and pursuant to IC 8-1.5-3-9.1 and IC 3-10-9 et seq.

Date: 30 July 2008

/s/ Michael W. Griffin, IAMC/CMC/CPFA  
Clerk-Treasurer

4. **Proposed Ordinance No. 1402.1375-H:** An Ordinance to amend the Wage and Salary Ordinance, as may be amended from time to time. *If adopted, the ordinance will provide authority for a part-time rate to permit retired Deputy Clerk-Treasurer to provide added training for successor.*

Councilor Herak introduced and moved the consideration of Ordinance No. 1402.1375-H on the same meeting of introduction. Councilor Kuiper seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no negatives. The motion passed. The ordinance could be considered at the same meeting.

Councilor Herak moved the passage and adoption of Ordinance No. 1402.1375-H on the same meeting of introduction. Councilor Vassar seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and no negatives. The motion passed. The ordinance was adopted.

**ORDINANCE No. 1402.1375-H  
of the  
TOWN of HIGHLAND, INDIANA**

**AN ORDINANCE to AMEND THE ORDINANCE FIXING THE WAGE and SALARY RATES of the EMPLOYEES of the TOWN of HIGHLAND, INDIANA for 2008, in the PUBLIC WORKS DEPARTMENT.**

**WHEREAS**, Title 36, Article 1 Chapter 4 of the Indiana Code confers certain general corporate powers on the several units of government in Indiana;

**WHEREAS**, Section fifteen of that chapter specifically provides that a unit of government may fix the level of compensation of its officers and employees; and

**WHEREAS**, I.C. 36-5-3-2 further provides in pertinent part that the town legislative body shall provide reasonable compensation for the other town officers and employees;

**WHEREAS**, I.C. 36-5-3-2(b), still further provides that the Town Legislative body shall, by ordinance fix the compensation of its own members and the Town Clerk-Treasurer;

**WHEREAS**, I.C. 36-5-3-2(c) still further provides that the compensation of an elected town officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year; and

**WHEREAS**, The Town Council of the Town of Highland, as the town legislative body, acted to fix the compensation of its elected officers, appointed officers and employees of the Town for the year ensuing, by passage and adoption of Ordinance No. 1375;

**WHEREAS**, The Town Council of the Town of Highland has been advised that modification to certain



provisions of Ordinance No. 1375, as amended, would be desirable;

**WHEREAS,** The Town Council of the Town of Highland, as the town legislative body, now desires to further modify and fix the compensation of its elected officers, appointed officers and employees of the Town for the year and to further perfect the wage and salary ordinance,

**NOW, THEREFORE, BE IT HEREBY ORDAINED** by the Town Council of the Town of Highland, Lake County, Indiana, that the Wages, Salaries, and special detail levels of the Officers and Employees of the Town of Highland, are hereby established and fixed, pursuant to the provisions indicated herein as follows:

**Provision One:** That subdivision (c) of Section 7 of Ordinance No. 1375 as amended, be repealed in its entirety and replaced with a new subdivision which shall be identified as subdivision (c) of Section 7 which shall read as follows:

**Section 7.** That subject to the provisions of this ordinance, the salary and wages for the elected officers, non-elected officers and employees of the Town of Highland are hereby fixed for its **Office of the Clerk-Treasurer** as follows:

**(c) Associate Employees and Staff**

		Starting Rate	Incumbent Rate
Associate Clerk, Payroll & Personnel	( 1 )	\$15.30	\$15.30 hr.
Lead Utility Clerk	( 1 )	\$15.30	\$15.30 hr.
Encumbering Officer	( 1 )	\$15.30	\$15.30 hr.
Chancery / Bursar Clerk	( 2 )	\$13.60	\$14.68 hr.
Utility Systems Clerk	( 1 )	\$13.60	\$13.60 hr.
Chamberlain Clerk	( 1 )	\$12.30	\$12.30 hr.
Chancery & Bursar Aide (part-time)		\$ 6.25-12.50 hr.	\$ 6.25-12.50 hr.

**Effective July 13, 2008:**

Chancery & Bursar Aide (part-time)	\$ 6.55-12.50 hr.	\$6.55-12.50 hr.
Information Technology Coordinator (part-time)	\$11.00 hr.	\$11.00 hr.
Deputy Clerk-Treasurer <i>Emeritus</i> (part-time)		Rate is the hourly rate equivalent of the last approved salary including longevity, prior to retirement. (\$21.42 hr.)

**Effective July 12, 2009:**

Chancery & Bursar Aide (part-time)	\$ 7.25-12.00 hr.	\$7.25-12.00 hr.
Information Technology Coordinator (part-time)	\$11.00 hr.	\$11.00 hr.
Deputy Clerk-Treasurer <i>Emeritus</i> (part-time)		Rate is the hourly rate equivalent of the last approved salary including longevity, prior to retirement. (\$21.42 hr.)

For any position described in subsections (b) and (c), a duly selected or promoted successor employee may be paid at the new position's pay rate even when the position is still occupied by a departing incumbent employee for the purposes of training by the incumbent employee.

The foregoing training pay arrangement may not be for a period of longer than thirty (30) days.

**Provision Two:** (A) That an emergency exists for the immediate taking affect of this Ordinance, which, subject to the provisions of this ordinance, shall become effective and shall remain in full force and effect from and after the date of its passage and adoption, pursuant to any effective dates herein described and until its repeal or amendment by subsequent enactment;

(B) That the Clerk-Treasurer shall have authority to implement within a reasonable time those provisions regarding wage changes occurring between the effective dates set forth retroactively in this ordinance and the date of its passage and adoption;

Introduced and Filed on the 28<sup>th</sup> day of July 2008. Consideration on same day or at same meeting of introduction sustained a vote of 4 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 28<sup>th</sup> Day of July 2008, by the Town Council of the Town of Highland, Lake

County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

5. **Proposed Ordinance No. 1403:** An Ordinance of the Town of Highland, Indiana, authorizing the issuance and sale of bonds of the Town for the purpose of providing funds to be used for the construction and reconstruction of certain road improvements, together with related and incidental expenses in connection therewith and on account of the issuance of the bonds *therefore. This ordinance will authorize general obligation bonds of the Town to be issued in an amount not to exceed \$1.9 million, to support the local share and construction engineering costs of the Kennedy Avenue Reconstruction Project, (\$1,063,000) and to provide added resources for street resurfacing.*

Councilor Herak introduced and moved the consideration of Ordinance No. 1403 on the same meeting of introduction. Councilor Kuiper seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no negatives. The motion passed. The ordinance could be considered at the same meeting.

Councilor Herak moved the passage and adoption of Ordinance No. 1403 on the same meeting of introduction. Councilor Vassar seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and no negatives. The motion passed. The ordinance was adopted.

ORDINANCE NO. 1403

**An Ordinance of the Town of Highland, Indiana, authorizing the issuance and sale of bonds of the Town for the purpose of providing funds to be used for the construction and reconstruction of certain road improvements, together with related and incidental expenses in connection therewith and on account of the issuance of the bonds therefor**

**WHEREAS,** The Town of Highland ("Town") is authorized by IC 36-5-2-11 as in effect on the date of issuance of the bonds authorized herein ("Act") to issue bonds to procure moneys to be used in the exercise of the powers of the Town and for the payment of Town debts; and

**WHEREAS,** The Town Council of the Town ("Town Council") hereby determines to provide for the cost of the reconstruction of a portion of Kennedy Avenue, the construction of certain street repairs, the payment of construction engineering fees ("Project") and the incidental expenses in connection therewith and on account of the issuance of bonds therefor; and

**WHEREAS,** Based upon the advice of the Town's financial advisor, the Town Council has determined that the estimated cost, including incidental expenses incurred in connection with the Project and with the issuance of bonds to finance the Project, will be in an amount not to exceed One Million, Nine Hundred Thousand Dollars (\$1,900,000); and

**WHEREAS,** The Town finds that it has no funds on hand available to apply on the costs of the Project and that the entire cost should be financed with the issuance of general obligation bonds; and

**WHEREAS,** The Town Council finds that the total cost of the project will be less than \$2,000,000 and 1% of the gross assessed value of property within the Town and, therefore, the bonds will not be issued to fund a controlled project, as defined in IC 6-1.1-20-1.1; and

**WHEREAS**, It is necessary that the bonds be issued in an amount not to exceed \$1,900,000 to provide funds to pay such costs of the Project and the incidental expenses to be incurred in connection with the Project and with the issuance and sale of the bonds;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HIGHLAND, INDIANA**, that:

**Section 1. Determination to Proceed; Authorization and Details of Bonds.**

- (a) The Town shall proceed to undertake the Project.
- (b) In order to procure funds with which to pay the costs of the Project, including capitalized interest and the costs of issuance of the Bonds on account of the Project, the Clerk-Treasurer is authorized and directed to have prepared and to issue and sell the bonds of the Town, to be designated as "General Obligation Bonds of 2008", in an aggregate principal amount not to exceed \$1,900,000 ("Bonds") in accordance with the Act.
- (c) The Bonds shall be sold at a price of not less than 98% of the par value thereof, and shall be issued in fully registered form in denominations of \$1,000 or integral multiples thereof, numbered consecutively from 1 upward, dated as of the date of delivery, and shall bear interest at a rate or rates not exceeding seven percent (7%) per annum (the exact rate or rates to be determined by bidding), which interest shall be payable semiannually on February 1 and August 1 of each year, commencing on August 1, 2009. Interest on the Bonds shall be calculated according to a 360-day year containing twelve 30-day months. The Bonds shall mature, or shall be subject to mandatory sinking fund redemption if term bonds are issued, semiannually on February 1 and August 1 of each year with a final maturity no later than twenty years from the date of issuance, and in amounts which will produce as level annual principal payments as practicable with \$1,000 denominations during the years principal is paid.

All or a portion of the Bonds may be issued as one or more term bonds, upon election of the successful bidder. Such term bonds shall have a stated maturity or maturities of February 1 or August 1, on the dates as determined by the successful bidder, but in no event later than the last serial date of the Bonds as determined in accordance with the above paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at 100% of the principal amount thereof, plus accrued interest to the redemption date, on dates and in the amounts hereinafter determined in accordance with the above paragraph.

(d) The President of the Town Council and the Clerk-Treasurer are authorized and directed to appoint a qualified banking institution to serve as Registrar and Paying Agent ("Registrar" or "Paying Agent") for the Bonds, which shall be charged with the responsibility of authenticating the Bonds. The Clerk-Treasurer is hereby authorized to enter into such agreements or understandings with such bank as will enable the bank to perform the services required of a Registrar and Paying Agent. The Clerk-Treasurer is further authorized to pay such fees as the bank may charge for the services it provides as Registrar and Paying Agent, and such fees may be paid from the bond fund established to pay the principal of and interest on the Bonds. Upon agreement between the Town and the successful bidder for the Bonds, the Clerk-Treasurer may be designated as the Registrar and Paying Agent, and, in that case, shall be charged with all responsibilities of a Registrar and Paying Agent.

(e) The principal of the Bonds shall be payable at the corporate trust office of the Paying Agent. Interest on the Bonds shall be paid by check mailed by first class mail one business day prior to the interest payment date to the

registered owner, as of the fifteenth day of the month immediately preceding the interest payment date ("Record Date"), to the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time). All payments on the Bonds shall be made in any coin or currency of the United States of America, which on the date of such payment shall be legal tender for the payment of public and private debts.

(f) Each Bond shall be transferable or exchangeable only upon the books of the Town kept for that purpose at the corporate trust office of the Registrar by the registered owner or by its attorney duly authorized in writing, upon surrender of such Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the registered owner, as the case may be, in exchange therefor. The Town, Registrar and Paying Agent and any other registrar for the Bonds may treat and consider the person in whose name such Bonds are registered as the absolute owner thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

(g) The Bonds shall bear an original date, which shall be the date of delivery, and each Bond shall also bear the date of its authentication. Bonds authenticated on or before the Record Date immediately preceding the first interest payment date shall be paid interest from the original date. Bonds authenticated thereafter shall be paid interest from the interest payment date to which interest has been paid next preceding the date of authentication of such Bonds unless the Bonds are authenticated after the Record Date and on or before the corresponding interest payment date, in which case interest thereon shall be paid from such interest payment date. If at the time of authentication of any Bond interest is in default thereon, that Bond shall bear interest from the date to which interest has been paid in full.

(h) The Bonds shall be signed in the name of the Town by the manual or facsimile signature of the President of the Town Council, and the seal of the Town shall be affixed, imprinted, engraved or otherwise reproduced thereon and attested by the manual or facsimile signature of the Clerk-Treasurer. The Bonds shall be authenticated with the manual signature of an authorized representative of the Registrar, and no Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon shall have been so executed. Subject to registration provisions, the Bonds shall be negotiable under the laws of the State of Indiana.

(i) The Town Council has determined that it may be beneficial to the Town to have the Bonds held by a central depository system pursuant to an agreement between the Town and The Depository Trust Company, New York, New York ("DTC") and have transfers of the Bonds effected by book-entry on the books of the central depository system ("Book Entry System"). The Bonds may be initially issued in the form of a separate single authenticated fully registered Bond for the aggregate principal amount of each separate maturity of the Bonds. In such case, upon initial issuance, the ownership of such Bonds shall be registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of DTC.

With respect to the Bonds registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of DTC, the Town and the Paying Agent shall have no responsibility or obligation to any other holders or owners (including any beneficial owner ("Beneficial Owner")) of the Bonds with respect to (i) the accuracy of the records of DTC, CEDE & CO., or any Beneficial Owner with respect to ownership questions, (ii) the delivery to any bondholder

(including any Beneficial Owner) or any other person, other than DTC, of any notice with respect to the Bonds including any notice of redemption, or (iii) the payment to any bondholder (including any Beneficial Owner) or any other person, other than DTC, of any amount with respect to the principal of, or premium, if any, or interest on the Bonds except as otherwise provided herein.

No person other than DTC shall receive an authenticated Bond evidencing an obligation of the Town to make payments of the principal of and premium, if any, and interest on the Bonds pursuant to this ordinance. The Town and the Registrar and Paying Agent may treat as and deem DTC or CEDE & CO. to be the absolute bondholder of each of the Bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such Bonds; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such Bonds; (iii) registering transfers with respect to such Bonds; (iv) obtaining any consent or other action required or permitted to be taken of or by bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium, if any, and interest on the Bonds only to or upon the order of DTC, and all such payments shall be valid and effective fully to satisfy and discharge the Town's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. Upon delivery by DTC to the Town of written notice to the effect that DTC has determined to substitute a new nominee in place of CEDE & CO., and subject to the provisions herein with respect to consents, the words "CEDE & CO." in this resolution shall refer to such new nominee of DTC. Notwithstanding any other provision hereof to the contrary, so long as any Bond is registered in the name of CEDE & CO., as nominee of DTC, all payments with respect to the principal of and premium, if any, and interest on such Bonds and all notices with respect to such Bonds shall be made and given, respectively, to DTC as provided in a representation letter from the Town to DTC.

Upon receipt by the Town of written notice from DTC to the effect that DTC is unable or unwilling to discharge its responsibilities and no substitute depository willing to undertake the functions of DTC hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, then the Bonds shall no longer be restricted to being registered in the register of the Town kept by the Registrar in the name of CEDE & CO., as nominee of DTC, but may be registered in whatever name or names the bondholders transferring or exchanging the Bonds shall designate, in accordance with the provisions of this ordinance.

If the Town determines that it is in the best interest of the bondholders that they be able to obtain certificates for the fully registered Bonds, the Town may notify DTC and the Registrar, whereupon DTC will notify the Beneficial Owners of the availability through DTC of certificates for the Bonds. In such event, the Registrar shall prepare, authenticate, transfer and exchange certificates for the Bonds as requested by DTC and any Beneficial Owners in appropriate amounts, and whenever DTC requests the Town and the Registrar to do so, the Registrar and the Town will cooperate with DTC by taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the fully registered Bonds of any Beneficial Owner's DTC account or (ii) to arrange for another securities depository to maintain custody of certificates for and evidencing the Bonds.

If the Bonds shall no longer be restricted to being registered in the name of DTC, the Registrar shall cause said Bonds to be printed in blank in such number as the Registrar shall determine to be necessary or customary; provided,

however, that the Registrar shall not be required to have such Bonds printed until it shall have received from the Town indemnification for all costs and expenses associated with such printing.

In connection with any notice or other communication to be provided to bondholders by the Town or the Registrar with respect to any consent or other action to be taken by bondholders, the Town or the Registrar, as the case may be, shall establish a record date for such consent or other action and give DTC notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible.

So long as the Bonds are registered in the name of DTC or CEDE & CO. or any substitute nominee, the Town and the Registrar and Paying Agent shall be entitled to request and to rely upon a certificate or other written representation from the Beneficial Owners of the Bonds or from DTC on behalf of such Beneficial Owners stating the amount of their respective beneficial ownership interests in the Bonds and setting forth the consent, advice, direction, demand or vote of the Beneficial Owners as of a record date selected by the Registrar and DTC, to the same extent as if such consent, advice, direction, demand or vote were made by the bondholders for purposes of this resolution and the Town and the Registrar and Paying Agent shall for such purposes treat the Beneficial Owners as the bondholders. Along with any such certificate or representation, the Registrar may request DTC to deliver, or cause to be delivered, to the Registrar a list of all Beneficial Owners of the Bonds, together with the dollar amount of each Beneficial Owner's interest in the Bonds and the current addresses of such Beneficial Owners.

**Section 2. Redemption of Bonds.** (a) The Bonds are redeemable at the option of the Town no later than five years from the date of issuance, or any date thereafter, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the Town and by lot within a maturity, at face value, with no premium, plus accrued interest to the date of redemption.

(b) Any Bonds issued as term bonds, upon election of the successful bidder, shall be subject to mandatory sinking fund redemption on February 1 or August 1, as determined by the successful bidder, at 100% of face value in accordance with the maturity schedule hereinafter determined in accordance with paragraph 1(c). The Registrar shall credit against the mandatory sinking fund requirement for any term bonds, and any corresponding mandatory redemption obligation, in the order determined by the Town, any term bonds maturing on the same date which have previously been redeemed (otherwise than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying Agent and not theretofore applied as a credit against any redemption obligation. Each term bond so delivered or canceled shall be credited by the Registrar at 100% of the principal amount thereof against the mandatory sinking fund obligation on such mandatory redemption date for that term bond. Any excess of such amount shall be credited on future redemption obligations, and the principal amount of that term bond to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced.

Each One Thousand Dollars (\$1,000) principal amount shall be considered a separate Bond for purposes of redemption. If less than an entire maturity is called for redemption, the Bonds to be called shall be selected by lot by the Registrar.

Notice of redemption shall be mailed to the address of the registered owner as shown on the registration records of the Registrar, as of the date which is forty-five (45) days prior to the date fixed for redemption, not less than thirty (30) days prior to such redemption date, unless notice is waived by the owner of the Bond or Bonds redeemed. The notice shall specify the date and place of redemption and sufficient identification of the Bonds called for redemption. The

place of redemption may be determined by the Town. Interest on the Bonds so called for redemption shall cease and the Bonds will no longer be deemed outstanding under this ordinance on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price, including accrued interest and redemption premium, if any, to the redemption date, on the date so named. Failure to give such notice by mailing, or any defect in such notice, with respect to any Bond shall not affect the validity of any proceedings for redemption of other Bonds.

If the Bonds are not presented for payment or redemption on the date fixed therefor, the Town may deposit in trust with the Paying Agent, an amount sufficient to pay such Bond or the redemption price, as the case may be, including accrued interest to the date of such payment or redemption, and thereafter the registered owner shall look only to the funds so deposited in trust with the Paying Agent for payment, and the Town shall have no further obligation or liability in respect thereto.

**Section 3. Form of Bond.** The form of the Bonds shall be substantially as follows:

No. \_\_\_\_\_

STATE OF INDIANA

COUNTY OF LAKE

TOWN OF HIGHLAND, INDIANA  
GENERAL OBLIGATION BOND OF 2008

<u>INTEREST</u> <u>RATE</u>	<u>MATURITY</u> <u>DATE</u>	<u>ORIGINAL</u> <u>DATE</u>	<u>AUTHENTICATION</u> <u>DATE</u>	<u>CUSIP</u>
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REGISTERED OWNER:

PRINCIPAL SUM:

The Town of Highland, in Lake County, Indiana ("Town"), acknowledges itself indebted, and for value received hereby promises to pay, to the Registered Owner or registered assigns, the Principal Sum set forth above on the Maturity Date set forth above (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest hereon until the Town's obligation with respect to the payment of the Principal Sum shall be discharged at the rate per annum specified above from the interest payment date immediately preceding the date of authentication of this bond unless this bond is authenticated on or before July 15, 2009, in which case interest shall be paid from the Original Date or unless this bond is authenticated between the first day of the month preceding an interest payment date and the interest payment date, in which case interest shall be paid from such interest payment date. Interest shall be payable on the first day of February and August of each year, commencing August 1, 2009.

The principal of and premium, if any, on this bond are payable at the principal office of \_\_\_\_\_ in the \_\_\_\_\_ of \_\_\_\_\_, Indiana ("Paying Agent" or "Registrar"). Interest on this bond shall be paid by check mailed by first class mail one business day prior to the interest payment date, to the Registered Owner, as of the fifteenth day of the month immediately preceding the interest payment date, to the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the Registered Owner. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time). All payments on this bond shall be made in any coin or currency of the United States of America, which on the dates of such payment shall be legal tender for the payment of public and private debts.

The full faith and credit of the Town, together with all of its taxable property, both real and personal, are hereby irrevocably pledged to the punctual payment of the principal of and the interest on this bond according to its terms. The Town covenants that it will cause a property tax for the payment of the principal of and interest on this bond to be levied, collected, appropriated and applied for that purpose as set forth in IC 6-1.1-18.5-8.

This bond is one of an authorized issue of bonds of the Town designated "General Obligation Bonds of 2008" aggregating One Million Nine Hundred Thousand Dollars (\$1,900,000); numbered consecutively from 1 upward; issued for the purpose of procuring funds to be applied on the cost of the construction and reconstruction of certain road improvements, together with related and incidental expenses in connection therewith, capitalized interest and expenses on account of the issuance of bonds therefor, which bonds are issued pursuant to a Bond Ordinance adopted by the Town Council of the Town, on the **28th day of July, 2008** ("Ordinance"), authorizing the issuance and sale of bonds of the Town and Title 36, Article 5, Chapter 2, Section 11 of the Indiana Code as in effect on the date of issuance of this bond.

This bond is transferable or exchangeable only upon the books of the Town kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney duly authorized in writing, upon surrender of this bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the Registered Owner or its attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in the same aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or to the Registered Owner, as the case may be, in exchange therefor. The Town, the Registrar and the Paying Agent for this bond may treat and consider the person in whose name this bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

The Town has designated the bonds as qualified tax-exempt obligations to qualify the bonds for the \$10,000,000 exception from the provisions of Section 265(b) of the Internal Revenue Code of 1986, as amended and in effect on the issue date of the bonds, relating to the disallowance of 100% of the deduction for interest expense allocable to tax-exempt obligations.

The bonds shall be initially issued in a Book Entry System (as defined in the Ordinance). The provisions of this bond and of the Ordinance are subject in all respects to the provisions of the Letter or Representations between the Town and DTC, or any substitute agreement, effecting such Book Entry System.

The Bonds are redeemable at the option of the Town, on August 1, 2018, or any date thereafter, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the Town and within any maturity by lot, at face value, with no premium, plus accrued interest to the date of redemption.

[The bonds maturing on \_\_\_\_\_ 1, 20\_\_ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest, on the dates and in the amounts set forth below:

<u>Date</u>	<u>Term Bond</u>	<u>Amount</u>
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\*

\* Final Maturity]

Each One Thousand Dollars (\$1,000) principal amount shall be considered a separate bond for purposes of redemption. If less than an entire maturity is called for redemption, the bonds to be called shall be selected by lot by the Registrar.

Notice of redemption shall be mailed to the address of the registered owner as shown on the registration record of the Registrar, as of the date which is forty-five (45) days prior to the date fixed for redemption, not less than thirty (30) days prior to such redemption date, unless said notice is waived by the registered owner of this bond. Any notice shall specify the date and place of redemption and sufficient identification of the bonds called for redemption. The place of redemption may be determined by the Town. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice, if sufficient funds are available at the place of redemption to pay the redemption price, including interest accrued to the redemption date, on the date so named. Failure to give such notice by mailing, or any defect in such notice, with respect to any bond shall not affect the validity of any proceedings for redemption of other bonds.

If this bond shall not be presented for payment or redemption on the date fixed therefor, the Town may deposit in trust with the Paying Agent, an amount sufficient to pay such bond or the redemption price, as the case may be, including accrued interest to the date of such payment or redemption, and thereafter the registered owner shall look only to the funds so deposited in trust with that bank for payment, and the Town shall have no further obligation or liability in respect thereto.

THE OWNER OF THIS BOND, BY THE ACCEPTANCE OF THIS BOND HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE ORDINANCE. The bonds are subject to defeasance prior to redemption or payment as provided in the Ordinance. The Ordinance may be amended without the consent of the owners of the bonds as provided in the Ordinance if the Town Council in its sole discretion, determines that the amendment shall not adversely affect the rights of any of the owners of the bonds.



The bonds maturing in any one year are issuable only in fully registered form in the denomination of \$1,000 or integral multiples thereof not exceeding the aggregate principal amount of the bonds maturing in such year.

It is hereby certified, recited and declared that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this bond have been done and performed in regular and due form as provided by law; that this bond and the total issue of the bonds is within every limit of indebtedness as prescribed by the constitution and laws of the State of Indiana.

This bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been duly executed by an authorized representative of the Registrar.

IN WITNESS WHEREOF, the Town of Highland, Lake County, Indiana, has caused this bond to be executed in the name of the Town by the manual or facsimile signature of its Town Council President, the seal of the Town or a facsimile thereof to be affixed, imprinted, engraved or otherwise reproduced hereon and attested by the manual or facsimile signature of the Clerk-Treasurer.

TOWN OF HIGHLAND, INDIANA

By: \_\_\_\_\_  
President, Town Council

(SEAL)

ATTEST:

\_\_\_\_\_  
Clerk-Treasurer

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within mentioned Ordinance.

\_\_\_\_\_, as Registrar

By: \_\_\_\_\_  
Authorized Representative

(end of bond form)

Section 4. Sale of Bonds. Prior to the sale of the Bonds, the Clerk-Treasurer shall cause to be published either (i) a notice of such sale two (2) times at least one (1) week apart in a newspaper published in Lake County with general circulation in the Town, with the first publication occurring at least fifteen (15) days prior to the sale date and the second publication occurring at least three (3) days prior to the sale date, or (ii) a notice of intent to sell bonds in the *Court & Commercial Record* and a newspaper published in Lake County with general circulation in the Town, all in accordance with IC 5-1-11 and IC 5-3-1. The notice must also be posted in the Town Hall. A notice or summary notice of sale may be published in the *Court & Commercial Record* or *The Bond Buyer*, financial journals published in the City of Indianapolis and in the City and State of New York, respectively, in the discretion of the Clerk-Treasurer. The notice shall state the purpose for which the Bonds are being issued, the total amount of the Bonds, the maximum rate of interest on the Bonds, the time and place of payment, the terms and conditions on which bids will be received and the sale made, and such other information as the Clerk-Treasurer, upon advice of counsel deemed necessary. The notice may provide, among other things, that each bid shall be accompanied by a certified or cashier's check or a financial surety bond to guarantee performance on the part of the bidder. If a financial surety bond is used, it must be from an insurance company licensed to issue such bond in the State of Indiana, and such bond must be submitted to the prior to the opening of the bids. The financial surety bond must identify each bidder whose good faith deposit is guaranteed by such financial surety bond. If the bonds are awarded to a bidder utilizing a financial surety bond, then that purchaser is required to submit to the Town

a certified or cashier's check (or wire transfer such amount as instructed by the Town) not later than 3:30 p.m. (Highland time) on the next business day following the award. In the event the successful bidder shall fail or refuse to accept delivery of the Bonds and pay for the same as soon as the Bonds are ready for delivery, or at the time fixed in the notice of sale, then the check and the proceeds thereof shall become the property of the Town and shall be considered as its liquidated damages on account of such default.

All bids for the Bonds shall be sealed and shall be presented to the Clerk-Treasurer at his office, and the Clerk-Treasurer shall continue to receive all bids offered until the hour on the day fixed in the notice, at which time and place he shall open and consider the bids. Bidders for the Bonds shall be required to name the rate or rates of interest which the bonds are to bear, not exceeding seven percent (7%) or such lower maximum rate set forth in the notice, and such interest rate or rates shall be in multiples of one-eighth (1/8) or one-twentieth (1/20) of one percent (1%). The rate bid on any maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. No conditional bid or bid for less than 98% of the face amount of the Bonds will be considered. The Clerk-Treasurer shall award the Bonds to the highest responsible and qualified bidder. The highest bidder shall be the one who offers the lowest net interest cost to the Town, computing the total interest on all of the Bonds to their maturities and adding thereto the discount bid, if any, and deducting therefrom the premium bid, if any. The Clerk-Treasurer shall have full right to reject any and all bids. If no acceptable bid is received at the time fixed in the notice for sale of the Bonds, the Clerk-Treasurer shall be authorized to continue to receive bids from day to day thereafter for a period not to exceed thirty (30) days, without readvertising, but during such continuation, no bid shall be accepted which offers an interest cost which is equal to or higher than the best bid received at the time fixed for such sale in the notice. No conditional bid or bid for less than all of the Bonds will be considered.

Prior to the delivery of the Bonds, the Clerk-Treasurer shall obtain a legal opinion as to the validity of the Bonds from Ice Miller LLP, bond counsel, of Indianapolis, Indiana, and shall furnish this opinion to the purchaser of the Bonds. The cost of this opinion, the services of the Town Attorney and the services of the Town's financial advisor shall be considered as part of the costs incidental to these proceedings and may be paid out of proceeds of the Bonds.

**Section 5. Preparation of Bonds.** (a) The Clerk-Treasurer is hereby authorized and directed to have the Bonds prepared, and the President of the Town Council and the Clerk-Treasurer are hereby authorized and directed to execute the Bonds in the form and manner provided in this ordinance.

(b) Distribution of an Official Statement (preliminary and final) for the bonds prepared by the Town's financial advisor, on behalf of the Town, is hereby authorized and approved and the Town Council President or the Clerk-Treasurer are authorized and directed to execute the Official Statement on behalf of the Town in a form consistent with this ordinance. The Town Council President or the Clerk-Treasurer are hereby authorized to designate the Official Statement as "nearly final" for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission. In the alternative, the Town Council President may obtain an investment letter from the purchaser of the Bonds in form satisfactory to the Town Attorney and Bond Counsel.

**Section 6. Defeasance.** The Bonds or any portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the Bonds or a portion thereof for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the Bonds then outstanding or any portion thereof shall be paid, or (i) sufficient moneys, or

(ii) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, the principal of and the interest on which when due will provide sufficient moneys, or shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the Bonds issued hereunder or any designated portion thereof shall no longer be deemed outstanding or entitled to the pledge created under this ordinance, including the taxes to be levied upon all taxable property in the Town.

**Section 7. Deposit and Application of Bond Proceeds; Surplus Bond Proceeds.** The Clerk-Treasurer is hereby authorized and directed to deposit the proceeds of the Bonds in a separate fund ("Bond Proceeds Fund") to pay for: (1) the cost of the Project and all other costs and expenses incurred in connection with the Project; and (2) costs of issuance of the Bonds. Except as described in this Section 7, the Bond Proceeds Fund may not be used for any other purpose. The Bond Proceeds Fund shall, in accordance with IC 5-13, be deposited, at interest, with the depository or depositories of other public funds of the Town, and all interest collected on it belongs to the fund. Any surplus remaining from the proceeds of the Bonds after all costs and expenses are fully paid shall be used in accordance with IC 5-1-13.

**Section 8. Covenant to Levy Tax** The full faith and credit of the Town, together with all of its taxable property, both real and personal, are hereby irrevocably pledged to the punctual payment of the principal of and the interest on the Bonds according to their terms. In order to provide for the payment of the principal of and interest on the Bonds, there shall be levied in each year upon all taxable property in the Town, real and personal, and collected, a tax in an amount and in such manner sufficient to meet and pay the principal of and interest on the Bonds as they become due and the proceeds of this tax are hereby pledged solely to the payment of the Bonds. Such tax proceeds shall be deposited into a separate bond fund and used to pay the principal of and interest on the Bonds, when due, together with any fiscal agency charges.

**Section 9. Tax Covenants and Representations.** In order to preserve the exclusion of interest on the Bonds from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as existing on the date of issuance of the Bonds and the Regulations in effect and applicable to the Bonds on the date of issuance of the Bonds (collectively, "Code") and as an inducement to purchasers of the Bonds, the Town Council represents, covenants and agrees that:

(a) The Project will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity other than the Town or another state or local governmental unit will use more than 10% of the proceeds of the Bonds or property financed by the Bond proceeds other than as a member of the general public. No person or entity other than the Town or another state or local governmental unit will own property financed by Bond proceeds or will have any actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, arrangements such as take-or-pay or output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, unless such uses in the aggregate relate to no more than 10% of the proceeds of the Bonds. If the Town enters into a management contract for the Project, the terms of the contract will comply with IRS Revenue Procedure 97-13, as it may be amended, supplemented or superseded from time to time, so that the contract will not give rise to private business use under the Code and the Regulations, unless such use in aggregate relates to no more than 10% of the proceeds of the Bonds.

(b) No more than 10% of the principal of or interest on the Bonds is (under the terms of the Bonds, this ordinance or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for any private business use or payments in respect of any private business use or payments in respect of such property or to be derived from payments (whether or not to the Town) in respect of such property or borrowed money used or to be used for a private business use.

(c) No more than 5% of the Bond proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than 5% of the Bond proceeds will be transferred, directly or indirectly, or deemed transferred to a nongovernmental person in any manner that would in substance constitute a loan of the Bond proceeds.

(d) The Town reasonably expects, as of the date hereof, that the Bonds will not meet either the private business use test described in paragraph (a) and (b) above or the private loan test described in paragraph (c) above during the entire term of the Bonds.

(e) No more than 5% of the proceeds of the Bonds will be attributable to private business use as described in (a) and private security or payments described in (b) attributable to unrelated or disproportionate private business use. For this purpose, the private business use test is applied by taking into account only use that is not related to any governmental use of proceeds of the issue (Unrelated Use) and use that is related but disproportionate to any governmental use of those proceeds (Disproportionate Use).

(f) The Town will not take any action nor fail to take any action with respect to the Bonds that would result in the loss of the exclusion from gross income for federal tax purposes on the Bonds pursuant to Section 103 of the Code, nor will the Town act in any other manner which would adversely affect such exclusion. The Town covenants and agrees not to enter into any contracts or arrangements which would cause the Bonds to be treated as private activity bonds under Section 141 of the Code.

(g) It shall be not an event of default under this ordinance if the interest on any Bond is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of issuance of the Bonds.

(h) These covenants are based solely on current law in effect and in existence on the date of delivery of such Bonds.

(i) The Town represents that:

(i) The Town is a governmental unit with general taxing powers, which powers include the power to impose taxes of general applicability that, when collected, may be used for the general purposes of the Town;

(ii) The Bonds are not private activity bonds as defined in Section 141 of the Code;

(iii) At least 95% of the net proceeds of the Bonds will be used for local governmental activities of the Town or of a governmental unit, the jurisdiction of which is entirely within the jurisdiction of the Town;

(iv) The aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the Town and all units subordinate to the Town, including on-behalf-of issuers and subordinate entities as those terms are defined in Regulations Section 1.148-8(c)(2), is not reasonably expected to exceed \$5,000,000 in calendar year 2008; and

(v) The Town has not been formed or availed of to otherwise avoid the purposes of the \$5,000,000 size limitation.

Therefore, the Town meets the requirements of Section 148(f)(4)(D) of the Code and will not have to rebate any arbitrage profits to the United States.

(j) The Town represents that:

(i) The Bonds are not private activity bonds as defined in Section 141 of the Code;

(ii) The Town hereby designates the Bonds as qualified tax-exempt obligations for purposes of Section 265(b) of the Code;

(iii) The reasonably anticipated amount of qualified tax-exempt obligations (including qualified 501(c)(3) obligations and tax-exempt leases but excluding other private activity bonds) which will be issued by the Town, and all entities subordinate to the Town during 2008 does not exceed \$10,000,000; and

(iv) The Town will not designate more than \$10,000,000 of qualified tax-exempt obligations during 2008.

Therefore, the Bonds qualify for the exception in the Code from the disallowance of 100% of the deduction by financial institutions of interest expense allocable to newly acquired tax-exempt obligations.

(k) Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance ("Tax Sections") which are designed to preserve the exclusion of interest on the Bonds from gross income under federal law ("Tax Exemption") need not be complied with if the Town receives an opinion of nationally recognized bond counsel that compliance with any Tax Section is unnecessary to preserve the Tax Exemption.

**Section 10. Continuing Disclosure.** If necessary to sell the Bonds, the Town Council President and the Clerk-Treasurer are hereby authorized and directed to complete, execute and attest on behalf of the Town a Continuing Disclosure Agreement ("Agreement") that complies with the requirements of SEC Rule 15c2-12. Notwithstanding any other provisions of this ordinance, failure of the Town to comply with the Agreement shall not be considered an event of default under the Bonds or this ordinance.

**Section 11. Debt Limit Not Exceeded.** The Town represents and covenants that the Bonds herein authorized, when combined with other outstanding indebtedness of the Town, will not exceed any applicable constitutional or statutory limitation on the Town's indebtedness.

**Section 12. Severability.** If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

**Section 13. Repeal of Conflicting Provisions.** All ordinances, or parts thereof, in conflict with the provisions of this ordinance, are, to the extent of such conflict, hereby repealed or amended.

**Section 14. Amendments to Ordinance.** This ordinance may, from time to time hereafter, be amended without the consent of the owners of the Bonds, if in the sole discretion of the Town Council, such amendment shall not adversely affect the rights of the owners of any of the Bonds.

**Section 15. Effective Date.** This ordinance shall be in full force and effect immediately upon its passage.

Introduced and Filed on the 28<sup>th</sup> day of July 2008. Consideration on same day or at same meeting of introduction sustained a vote of 4 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 28<sup>th</sup> Day of July 2008, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/CMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1;IC 36-5-6-5)

6. Request by Fire Chief for Authorization to Purchase a replacement vehicle for Fire One, owing to the August 1st deadline ending a cost savings promotion, subject to ratification by Town Council. Councilor Kuiper moved that the Fire Chief be authorized to take steps to purchase a replacement vehicle as indicated, subject to ratification by the Town Council. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The Chief was authorized.

### Committee Reports

- **Councilor Mark Herak:** *Advisory Board of Zoning Appeals Liaison • Board of Sanitary Commissioners Liaison • Special Events Advisory Committee, Liaison.*

Councilor Herak reported for Parks and Recreation that a Block Party would be conducted at Meadows Park from 6-8 p.m., July 29, 2008; Summer Musical presentation of "Grease" would be performed July 31-August 2 and August 7-9, 2008 at the Main Square Park; Finally, the Park Department would be cooperating in the pursuit of a grant to connect current bike paths across the Cady Marsh Ditch, near Brantwood to connect the Highland Trail to Munster.

Councilor Herak reported that the Public Works Director had presented a request to Indiana Department of Transportation (INDOT) to delay its Indianapolis Boulevard Improvement Project to 2010, which has been favored. The letting for this project is now scheduled for July 2009;. This request was made to accommodate the Town of Highland's plans to execute a Federal Highway aid improvement project for Kennedy Avenue for FY 2008-2009;

From the Sanitary District, Councilor Herak reported that the North Drive Pump Station generator is currently under design.

*Amendment of the Agenda.* Councilor Herak then moved to amend the agenda to permit consideration of the establishment of a special committee to review a recent article in the TIMES, regarding Highland. (It is believed to be an article that ran on July 23, 2008 as a letter to the editor, written by Peggy Hurst.) Councilor Vassar seconded. Upon a roll call vote, a two thirds vote being necessary, there were four affirmatives and no negatives. The motion passed. The agenda was amended for this matter.

An informal colloquy among the members of the Town Council ensued regarding the matter now being considered. The Town Council President suggested that the committee be comprised of the Town Board of Metropolitan Police Commissioners James Turoci, Dan Stombaugh, and Jim DeGraaf. The discussion included seeking clarification of the objects of the committee and its scope.

*Committee Established.* Following the colloquy Councilor Vassar moved to establish a separate committee, comprised of the Town Board of Metropolitan Police Commissioners James Turoci, Dan Stombaugh, and Jim DeGraaf, to review a call for service involving *Peggy Hurst* and all parties. Councilor Herak seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. A separate committee was authorized as indicated.

- **Councilor Dan Vassar:** *Parks and Recreation Board Liaison • Building and Inspection Committee • Plan Commission member.*

Councilor Vassar commended the Parks and Recreation Staff for its work in support of the recent Indiana State Little League finals conducted at Markley Park.

Councilor Vassar offered a brief survey of matters that were to be reviewed by the Plan Commission.

- **Councilor Konnie Kuiper:** *Town Board of Metropolitan Police Commissioners Liaison • Traffic Safety Commission Member • Chamber of Commerce Liaison.*

Councilor Kuiper reported that voluntary contributions were being sought for the purpose of supporting purchase portable radios for VIPS and some articles of the animal control function.

- **Councilor Bernie Zemen:** *Town Executive • Police Pension Board of Trustees Chair • Budget Committee Chair • Redevelopment Commission Liaison • Plan Commission member • Insurance Committee, member.*

Council President Zemen reported that the Redevelopment Commission was arranging for a special trip of the Town's elected officers to conduct a site visit in Mishawaka to see some developments of Cressy-Evert, a developer that has expressed some possible interest in the north Kennedy Avenue segment of the Downtown Redevelopment Area.

#### **Comments from the Public for Matters not on the Agenda**

1. Rick Volbrecht, 9221 Parkway Drive, Highland, commented unfavorably on the action of the Town Council amending the Agenda as it did and suggested he would file a complaint with the Indiana Public Access Counselor.
2. Joe Bartok, 9324 Spring Creek Drive, inquired about the pay that was set forth in the Wage and Salary Ordinance amendment for the Deputy Clerk-Treasurer *Emeritus*.
3. Vernon Sieb, 3024 Lakeside Drive, Highland, inquired about the nature of quality control and quality assurance for the Kennedy Avenue Reconstruction Project and further inquired about the method of financing.

**Payment of Accounts Payable Vouchers.** There being no further business from the floor, Councilor Herak moved to allow the accounts payable vouchers as filed on the pending pay docket, covering the period July 15, 2008 through to July 28, 2008. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The accounts payable vouchers were allowed and the clerk-treasurer was authorized to make payment.

**General Fund, \$303,171.44 Motor Vehicle Highway and Street (MVH) Fund, \$11,842.10; Local Road and Streets Fund, \$12,617.16; Law Enforcement Continuing Education, Training and Supply Fund, \$165.81; Corporation Bond and Interest Fund, \$69,940.06; Capital Projects Retainage Agency Fund, \$60,390.90; Innkeepers Tax Fund, \$5,000.00; Information and Communications Technology Fund, \$8,616.28; Civil Donation Fund, \$421.48; Local Major Moves Fund, \$15,175.05; Special Events Non Reverting Fund, \$26,554.18; Cumulative Capital Improvement Fund, \$80,000.00; Traffic Violations Agency Fund, \$2,362.00; Safe Neighborhoods Grant Fund,**

\$16,057.52; **Health Insurance Fund**, \$80,000.00; **Payroll Fund**, \$99.58; **Total:**  
**\$692,533.86.**

**Adjournment.** Councilor Kuiper moved that the meeting be adjourned. Councilor Herak seconded. Upon a vote, *viva voce*, the motion passed. The regular meeting of the Town Council of Monday, July 28, 2008 was adjourned at 8:13 O'clock p.m.

There was no study session following the meeting.

Michael W. Griffin, IAMC/CMC/CPFA  
Clerk-Treasurer